IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

CRIMINAL APPEAL No. 702 of 1996

HONOURABLE MR.JUSTICE KS JHAVERI

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1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the civil judge ?

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STATE OF GUJARAT - Appellant(s)
Versus
NIMAJBHAI MADHAVJIBHAI KAJANI - Opponent(s)

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Appearance :
MR AJ DESAI, for Appellant(s) : 1,
MR YV BRAHMBHATT for Opponent(s) : 1,

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CORAM : HONOURABLE MR.JUSTICE KS JHAVERI

Date : 01/10/2007

ORAL JUDGMENT

1. This appeal is directed against the judgement and order dated 18th May 1996, passed by learned Judicial Magistrate, First Class, Rajula in Criminal Case No.1519 of 1992, whereby the respondent herein was acquitted of the offences alleged against him under the provisions of Food Adulteration Act, 1954.

2. The short facts of the case are that on 28th February 1992 the Food Inspector went to the store of the respondent, collected sample of chilly powder and sent the same for laboratory testing. Upon testing it was alleged the chilly powder was adulterated. In pursuance of the same a complaint came to be filed against the respondent which was numbered as Criminal Case No.1519 of 1992.

3. Learned Judicial Magistrate, First Class, Rajula, by judgement and order dated 18th May 1996 acquitted the respondent of the offences with which he was charged. It is against the aforesaid judgement and order the present appeal has been filed.

4. Mr A.J.Desai, learned APP appearing for the appellant State submitted that there are observations of the trial court

contrary to the evidence on record. He further submitted that certain documents produced on record were also not considered by the trial court.

5. After going through the judgement and order and the documents on record, I am prima facie of the view that there are certain observations made by the learned Judge, which are contrary to the evidence on record. The goods in question were purchased and necessary receipt was produced on record at Exh.24 which was not considered by the learned Judge. As stated by the learned Advocate for the appellant, certain documents are also not considered by the learned Judge.

6. Mr. Brahmbhatt, learned Advocate appearing for the respondent is not in a position to dispute the aforesaid facts.

7. In view of the above, I am of the view that interests of justice would be met by remanding the matter for fresh consideration. Therefore, this Court has not gone into the merits of the matter and remand the matter for consideration of the case afresh.

8. In the premises aforesaid, the impugned judgement and order dated 18th May 1996 passed by Judicial Magistrate, First

Class, Rajula, in Criminal Case No.1519 of 1992 is quashed and set aside. The matter is remanded to the trial Court for deciding the matter afresh. The trial court shall consider the matter afresh and consider all the documents produced on record without being influenced by the fact that this Court has set aside the impugned judgement and order. The appeal is allowed accordingly. R & P, if lying in this Court, shall be returned forthwith.

[K.S. JHAVERI, J.]

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